IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.CJ.

APPEAL NO. 643 OF 2006
IN
NOTICE OF MOTION NO.2212 OF 2006
IN
SUIT NO.1948 OF 2006

Rekha Vipin Khakhar .. Appellant
v/s.
Nishant Mitrasen Mahimtura and others .. Respondents

Mr. Rajiv Kumar with Mr. N.N. Vaishnava i/by M/s. N.N. Vaishnava & Co. for the Appellant.

Mr. N.M. Mahimtura for the respondent No.1.

CORAM : R.M.LODHA &
S.A.BOBDE, JJ.

DATED : 12TH SEPTEMBER, 2006.

P.C.

We heard Mr. Rajiv Kumar, the counsel for the appellant.

2. The counsel pressed for appointment of Court Receiver until the hearing of the notice of motion by the learned motion Judge. We are not inclined to grant the said prayer in appeal.

3. In the impugned order dated 25th July, 2006, the motion Judge has recorded in her order that the defendants have already connected the suit flat with the adjoining premises owned by defendant Nos.1 and 2. In other words from the plan at Exhibit `B' (page 39) it appears that on the date the impugned order came to

be passed by the learned motion Judge, the portion bounded by green lines has already been included in the portion bounded by red lines by demolishing the wall shown in green as well as red line. In the circumstances, the order passed by the learned motion Judge directing the defendant Nos.1 and 2 to maintain status-quo in respect of the suit premises as set out in para 4 of the order meets the ends of justice until the disposal of the notice of motion. The learned motion Judge also directed the defendant Nos.1 and 2 to deposit a sum of Rs.15,00,000/- (Rupees fifteen lacs) with the Prothonotary and Senior Master of this court within two weeks. The defendant No.1 appears in person and submits that Rs.10,00,000/- (Rupees ten lacs) were deposited within two weeks and the remaining Rs.5,00,000/- (Rupees five lacs) were deposited in the extended period.

4. We are, thus, satisfied that the impugned order does not call for any interference. All contentions raised in the appeal regarding appointment of Court Receiver are kept open to be agitated at the time of hearing of the notice of motion.

5. Looking to the controversy involved in the matter, we request the learned motion Judge to hear and decide the notice of motion expeditiously.

(R.M.LODHA, J.)

(S.A.BOBDE, J.)